



ARIZONA DEPARTMENT OF ECONOMIC SECURITY

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December 22, 2006

WIA Guidance Letter #19-06

Rescinds WIA Guidance Letter #02-05, Dated January 18, 2005
Rescinds WIA Guidance Letter #02-05, Change 1, Dated July 29, 2005

Subject: WIA Title IB Youth Procurement Guidelines
Changes are in ***bold and italicized***.

References: P.L. 105-220 §112(b)(18)(B), 117(d)(2)(B), 117(e), 117(h)(4)(B)(i) and (ii), 123, applicable administrative provisions under Subtitle E; 20 CFR 664.405(a)(4), and 664.610; ***29 CFR parts 95.40-48 and 97.36***; circulars published by the U.S. Office of Management and Budget; and USDOL-ETA Training and Employment Guidance Letter (TEGL) 9-00 dated January 23, 2001.

Purpose: These guidelines are issued in accordance with federal statutory and regulatory provisions governing procurement of services for eligible youth by entities receiving Workforce Investment Act (WIA) Title IB funds. The intent of the guidelines is to promote and clarify federal compliance with WIA policies regarding consumer choice and the competitive procurement of services for the benefit of WIA eligible youth.

Background: In December 2003, the U.S. Department of Labor, Employment and Training Administration, conducted its bi-annual review of Arizona's WIA Title IB programmatic and fiscal activities. Under terms of the review, guidelines have been developed and are hereby issued to all Local Workforce Investment Areas (LWIA), pertaining to the procurement of youth services through open, competitive processes as required in the Act and its regulations.

Attached to this letter are the following documents:

(A) **State of Arizona Procurement Guidelines, Provision of Youth Services by Local Workforce Investment Boards under Title IB of the WIA**

(B) **Frequently Asked Questions** designed to present answers to frequently asked questions surrounding the youth procurement guidelines. Please note that the questions will be amended as necessary to respond to additional questions/concerns that may arise as local areas institute the attached procurement guidelines.

Action Required: Please distribute this Guidance Letter and attachments to the appropriate Local Workforce Investment Board and Youth Council members as well as all staff associated with the procurement and delivery of youth services. To request training or technical assistance related to these matters, contact the Field Operations Manager at (602) 542-3957.

This policy is subject to change. All WIA Guidance Letters are posted on the WIA website at <http://www.azdes.gov/wia/infomemos.asp>.

Sincerely,

A handwritten signature in cursive script that reads "Lela Alston".

Lela Alston, Manager
EA/WIA Section

Attachment A: State of Arizona Procurement Guidelines
Attachment B: Frequently Asked Questions

STATE OF ARIZONA PROCUREMENT GUIDELINES

PROVISION OF YOUTH SERVICES BY LOCAL WORKFORCE INVESTMENT BOARDS (LWIBs) UNDER TITLE IB OF THE WORKFORCE INVESTMENT ACT (WIA)

DEFINITIONS

PROCUREMENT: Any acquisition action which obligates WIA Title IB funds for the purchase of equipment, materials, supplies, program or administrative services. Procurement actions must be conducted in a manner that provides for full and open competition and prevents the existence of conflicting roles that might bias judgment and cause unfair competitive advantage. Individuals who develop or issue the solicitation cannot be involved in the review, evaluation or selection process. Each LWIA is responsible for the post award administration or oversight of the awarded services.

Local Workforce Investment Areas (LWIAs) will use their own procurement procedures which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal law and state laws and the standards identified in 20 CFR 97.36(b). In other words, LWIAs may use the federal, state, or county procurement process; whichever is more restrictive, in their selection process.

Competitive Procurement can occur through use of either a Request For Proposal (RFP) or Request for Quotation (RFQ). This local procurement process, including relevant documentation, invites offers from service providers for the delivery of specific WIA related youth services and includes receipt of information necessary for an objective evaluation of and comparison to similar offers.

PROGRAM OF TRAINING: One or more courses or classes or a structured regimen that, upon successful completion, leads to: (a) a certificate, an associate degree, baccalaureate degree, or (b) the skills or competencies needed for a specific job, an occupation, or generally, many types of jobs or occupations as recognized by employers and determined prior to training.

EXCLUSIONS

Procurement of the following types of services is excluded from these guidelines:

Delivery of youth training services in accordance with 20 CFR, Part 664 Subparts D and Subpart F:

- I. Through providers currently eligible per the State Eligible Training Provider List, Arizonaheat (www.ade.az.gov/arizonaheat) and the Individual Training Account (ITA) process
- II. Through contracts with providers of on-the-job training (OJT) or customized training

STATE OF ARIZONA PROCUREMENT GUIDELINES

- III. Through contracts with community-based organizations (CBOs) or other private organizations designed for special participant populations facing multiple barriers to employment
- IV. Summer Employment Activities
 - a. If providers other than the grant recipient or fiscal agent are to operate summer youth employment programs, these providers must be selected on a competitive basis
 - b. Whether summer employment opportunities are competitively selected or directly provided by the grant recipient or fiscal agent, evidence of a direct linkage between employment and academic or occupational learning must be documented

PROCUREMENT OF YOUTH SERVICES

Section 123 of WIA requires the selection of youth providers through a competitive selection process. Each LWIB, with recommendations from its Youth Council and in accordance with criteria outlined in the State WIA Two-Year Strategic Plan, is afforded the opportunity to identify providers of youth services that effectively address the needs of local youth.

A) The competitive procurement of youth services applies to the following elements of local WIA Title IB youth programs:

- I. Tutoring, study skills training, and instruction leading to secondary school completion, including dropout prevention strategies
- II. Alternative secondary school offerings [e.g. General Education Diploma (GED)]
- III. Paid and unpaid work experiences, including internships, job shadowing
- IV. Occupational skills training (*if not utilizing providers listed on the State's ETPL list (arizonaheat)*)**
- V. Leadership development opportunities, which include community service and peer centered activities encouraging responsibility and other positive social behavior (e.g. exposure to post-secondary education opportunities, community/service learning projects, teamwork/team leadership, decision-making, and life skills).
- VI. Supportive services which may include assistance with transportation, child care and dependent care, housing, referrals to medical services, appropriate work attire and related tools including protective eyewear.
- VII. Adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months
- VIII. Follow-up services for not less than 12 months after the completion of participation, as appropriate
- IX. Comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral

STATE OF ARIZONA PROCUREMENT GUIDELINES

Local Boards are urged to develop the solicitation in a manner which encourages meaningful competition and increases choices for youth customers. The State encourages a process under which potential providers are allowed to bid on those services for which they are qualified as opposed to a “bundled” process under which potential bidders must bid on most or all services in order to be considered as a qualified bidder.

B) The competitive procurement of youth services need not apply to the following design elements of local Title IB youth programs when these elements are offered and/or administered by the local grant recipient or fiscal agent. Competitive procurement for the following elements is allowable, but is not required, for these design elements:

- I. Intake - Program registration, eligibility determination and collection of information to support eligibility verification, pre-screening of potential participants and general orientation to self-help services, and referrals to other services
- II. Objective Assessment - Identification of service needs, academic levels, goals, interests, skills levels, abilities, aptitudes, and supportive service needs, and measures of barriers and strengths; review of basic and occupational skills, prior work experience, employability potential, and developmental needs
- III. Development of the Individual Service Strategy (ISS) [a product of the objective assessment]
- IV. Case management services that are part of the overall ISS, apart from such services offered by providers that were competitively selected

C) Grant Recipient as One-Stop Operator

If the grant recipient or sub-recipient (as designated by the chief elected official or the Governor) is also the One-Stop Operator, the Operator may provide the program design elements shown in Section B above without competition. One-Stop Operators that are not local grant recipients or sub-recipients may apply to provide program design components in any competitive selection process, where such components are not solely provided by the local grant recipient.

D) Statewide discretionary funds (i.e. 15% set-asides)

Funds used for required or allowable youth activities, including those described in Sections A and B above, are generally not subject to the competitive selection process, but are subject to State procurement rules. EXCEPTION: If portions of the 15% set-aside funds are allocated by formula to all local areas to augment formula-funded youth activities, the competitive selection process does apply to these additional funds.

STATE OF ARIZONA PROCUREMENT GUIDELINES

E) Statewide funds used to provide additional assistance to local areas with “high concentrations of eligible youth”

These funds are exempt from the competitive selection process, but are still subject to applicable State procurement rules.

COMPLIANCE

Local Boards must follow a procurement process that ensures compliance with the prescribed rules and regulations. At a minimum, the procurement process must ensure:

- I. Solicitation methods that promote fair and open competition
- II. A written code of conduct that includes specific conflict of interest provisions to ensure that those who develop or issue a proposal, or are involved in the selection process, are separate and distinct from those who bid upon it
- III. A clear and accurate description of the services being procured
- IV. A specific contract time frame with the option to extend the contract for a specified period based on a provider's compliance with the terms of the contract

In addition, as outlined in the State's 2005 Two Year Strategic Plan, each LWIB must use the following criteria in awarding contracts for youth services:

- I. Ability to measure and attain youth-related core performance levels
- II. Participant and employer (customer) satisfaction levels
- III. Process for conducting skills and needs assessments, performance goals and objectives for each youth participant
- IV. Coordination with local secondary and post-secondary institutions
- V. Prior experience working with disadvantaged, special populations and in operating education training and employment programs
- VI. Leveraging funds with other funding sources
- VII. Fiscal accountability
- VIII. Program design that includes the following components: (1) an objective assessment for each participant; (2) Individual Service Strategies; (3) services that prepare youth for post-secondary educational opportunities, link academic and occupational learning, prepare youth for employment, and provide connections to intermediary organizations linked to the job market and employers

LACK OF QUALIFIED YOUTH PROVIDERS

An LWIA may fail to receive responses to its solicitation that allows youth services to be awarded competitively. In such instances, an LWIB, in cooperation with the Youth Council, must complete the following steps within seven (7) business days of the proposal deadline established in the solicitation:

STATE OF ARIZONA PROCUREMENT GUIDELINES

Step 1: Submit a written request to the State WIA grantee – DES Employment Administration/WIA Section for a formal review of:

- I. The proposal document provided to potential bidders
- II. **Dated** evidence of recent (i.e. within one year) resource mapping to determine the availability of youth providers and services in the LWIA
- III. **A matrix demonstrating outreach activities, including entrepreneurial business contacts (with profit or non-profit organizations), dates and manner the businesses and organizations received notice of the solicitation.**
- IV. Description of the youth element(s) that the LWIB was unable to competitively procure
- V. A **copy of the local procurement policy and process** including (1) method(s) used in notifying potential bidders of the solicitation; (2) degree to which the LWIB and Youth Council were involved in its development; (3) number of LWIB, Youth Council, and grantee/fiscal agent staff involved in reviewing proposals; (4) review results, including reviewers' comments; and (5) any comments received from non-bidders concerning their inability to submit a response to the solicitation.
- VI. LWIB's program design detailing (1) the specific services to be provided to individual youth participants based on the program element(s) relevant to direct service
- VII. A plan detailing specific steps to be taken to ensure that adequate bids are received that address all youth procurement elements that must be competitively procured
- VIII. A written request for a review of the youth procurement process, including the above documentation must be mailed to:

DES – Employment Administration/WIA Section
Attn: Field Operations Manager
1789 West Jefferson – Site 920Z
Phoenix, AZ 85007

Step 2: The DES EA/WIA Section will provide written results of its review to the LWIB and Youth Council within 14 (fourteen) business days of receipt of the review request.

Step 3: The LWIB must then incorporate all State-required modifications into the solicitation and/or bidding process if applicable, and resubmit the solicitation to potential bidders.

Step 4: If resubmission of the solicitation and/or altering the process again results in a lack of bids for youth elements that must be competitively procured, the LWIB may be granted permission to provide such youth elements on a sole source basis, pending approval of a waiver granted to the LWIB by the Governor's Council on Workforce Policy (GCWP).

STATE OF ARIZONA PROCUREMENT GUIDELINES

Step 5: The following documentation must be prepared for the GCWP's consideration prior to the Council's granting permission for an LWIB to provide one or more youth services on a sole source basis:

- I. **Dated** evidence of recent (i.e. within one year) resource mapping to determine the availability of youth providers and services in the LWIA
- II. **A matrix demonstrating outreach activities, including entrepreneurial business contacts (with profit or non-profit organizations), dates and manner the businesses and organizations received notice of the solicitation.**
- III. Description of the youth element(s) that the LWIB was unable to competitively procure
- IV. A **copy of the local procurement policy** and process including (1) method(s) used in notifying potential bidders of the solicitation; (2) degree to which the LWIB and Youth Council were involved in its development; (3) number of LWIB, Youth Council, and grantee/fiscal agent staff involved in reviewing the proposals; (4) review results, including reviewers' comments; and (5) any comments received from non-bidders concerning their inability to submit a response to the solicitation
- V. LWIB's program design detailing (1) the specific services to be provided to individual youth participants based on the program element(s) relevant to direct service

Note: The existence of language in a local plan that calls for the LWIA to provide youth services without benefit of a competitive process is not in accordance with requirements for WIA procurement and must be amended based on established state guidelines.

FREQUENTLY ASKED QUESTIONS

STATE OF ARIZONA PROCUREMENT GUIDELINES PROCUREMENT OF YOUTH SERVICES BY LOCAL WORKFORCE INVESTMENT BOARDS (LWIBS) UNDER TITLE IB OF THE WORKFORCE INVESTMENT ACT (WIA)

This document was prepared to address questions posed about the administrative procurement procedures and the extent to which providers of youth services must be competitively selected.

Q1. Is the agency/entity that staffs the LWIB allowed to participate in the bidding process for those youth services that must be competitively procured?

A1. No. A basic tenet of the youth procurement process is that it provides for full and open competition and avoids even the appearance of a conflict of interest (either individually or organizationally). "Staff to the board" is not considered an entity distinct from the LWIB for procurement purposes. [Ref: TEGL 9-00, Sec. 7 dated 1/23/01; United Administrative Requirements for Procurement by Governmental Entities; 29 CFR, Sec. 95.42 and 97.36(b)(2)].

With respect to LWIB and Youth Council members who are youth providers, such individuals shall be excluded from the development of the Request for Proposals (RFP) and the development of the evaluation and selection criteria when awarding of a contract could benefit the member's organization. (Ref: The WIA Youth Program RFP Guide, pg. 8 developed by Callahan Consultants for the US Department of Labor, Employment and Training Administration, 2000).

Q2. Does a youth training provider have to be on the approved statewide eligible training provider list as do training providers of adult and dislocated worker programs using Individual Training Accounts (ITAs)?

A2. No. Youth providers do not have to be on the approved statewide eligible training provider list (ETPL). The ETPL is intended for providers of occupational training for adults and dislocated workers funded through vouchers (ITAs). However, WIA requires that the state maintain a youth provider list for distribution to LWIA [P.L. 105-220, Section 129(b)(2)(A)]. Arizona's current youth provider list is available on the WIA Section's web site at www.azdes.gov/wia. LWIA are contacted periodically to provide updates to the list.

Q3. What is resource mapping?

A3. Resource mapping is a process that brings together youth-serving organizations to expand the resource base of needed services for youth. The process supports the development of an effective and inclusive RFP process. It is critical that a broad spectrum of youth-serving agencies be involved in the resource mapping process. Among the types of agencies to consider including in the mapping process are secondary and vocational education institutions; faith-based organizations;

FREQUENTLY ASKED QUESTIONS

community-based organizations (e.g. Boy and Girl Scouts), state agencies (e.g. Juvenile Justice, Foster Children), and other organizations (e.g. military recruiters, employers) targeting youth who may be WIA eligible. [Ref: TEGL 9- 03, Section 6 dated 1/23/01].

Q4. Is there a requirement in the WIA regarding the frequency with which youth services must be competitively procured by an LWIB?

A4. No. LWIBs are required to use their own local government procurement procedures provided that the procurement practices conform to applicable federal laws and state administrative standards.

Q5. Are there youth services for which the competitive procurement process need not apply?

A5. Yes. The local grant recipient may elect not to competitively procure services defined as part of the design framework of the local program (WIA Section 129(c)(1); WIA Final Rule, Sec. 664.405; TEGL 9-00). The program design framework component is an essential ingredient, in helping local areas develop comprehensive service strategies for youth based upon their individual needs. The design framework component includes:

- I. Participant intake activities such as registration, eligibility determination and collection of information to support eligibility verification
- II. Objective assessment that identifies service needs, academic levels, goals, interests, skill levels, abilities, aptitudes, and supportive service needs
- III. Individual service strategy (ISS) and associated case management services which identify the employment goals, educational objectives, and prescribes appropriate services for the participant. ISS also includes providing information on local youth activities and referrals to the providers of those services

In addition, the grant recipient may elect to provide *subsidized* summer employment opportunities directly for youth in the local area. Employers providing *unsubsidized* youth employment opportunities may also be excluded from the competitive selection process.

Note: Whether summer employment opportunities are provided directly or competitively procured, direct linkages to academic and occupational learning must be included in such opportunities.

FREQUENTLY ASKED QUESTIONS

Q6. Would an RFP requiring potential providers to bid on multiple youth services be acceptable?

A6. No. The state encourages local boards to develop RFPs in a manner which provides for meaningful competition and increases choices for youth customers. Therefore, bidders are encouraged to bid on those services for which they are qualified as opposed to a “bundled” process under which a potential bidder must bid on most or all services (i.e. 10 required program elements) in order to be considered a qualified bidder.

Q7. What if the local area does not receive proposals from providers for some or all of the required youth program elements?

A7. A LWIA may not receive proposals that allow youth services to be competitively awarded. In such instances, the LWIB must notify the state WIA grantee (DES Employment Administration/WIA Section) by following the steps outlined in the state’s Youth Procurement Guidelines under the title, “Lack of Qualified Youth Providers” (See pgs. 4 – 6 of the Guidelines).